

**REMARKS**

Applicant appreciates the Examiner's thorough consideration provided the present application. Claims 1-7 and 9-20 are now present in the application. Claims 1, 7 and 13 have been amended. Claims 1, 7 and 13 are independent. Reconsideration of this application, as amended, is respectfully requested.

**Reasons For Entry Of Amendments**

As discussed in greater detail hereinafter, Applicant respectfully submits that the rejections under 35 U.S.C. §103(a) are improper and should immediately be withdrawn. Accordingly, the finality of the Final Office Action mailed on June 18, 2004 should be withdrawn.

If the Examiner persists in maintaining his rejections, Applicant submits that this Amendment was not presented at an earlier date in view of the fact that Applicant is responding to a new ground of rejection set forth in the Final Office Action. In accordance with the requirements of 37 C.F.R. §1.116, Applicant respectfully requests entry and consideration of the foregoing amendments as they remove issues for appeal.

**Claim Rejections Under 35 U.S.C. § 103**

Claims 1-4, 7, 10, 13, 15-17 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kuroda et al, U.S. Patent No. 6,081,490, in view of Mizumoto et al, U.S. Patent No. 5,289,450. Claims 5, 6, 11, 12, 18 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kuroda et al. in view of Mizumoto et al., and further in view of Büchler, U.S. Patent No. 6,266,305. Claims 9 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable under 35 U.S.C. §103(a) as being unpatentable over Kuroda et al. in view of Mizumoto et al., and further in view of Iimura, U.S. Patent No. 5,936,921. These rejections are respectfully traversed.

Complete discussions of the Examiner's rejections are set forth in the Office Action, and are not being repeated here.

Independent claim 1 recites a combination of steps in a method for controlling a recording or reproducing of information on or from an optical recording medium having control information recorded in a wobbled form on a signal track, including "detecting a wobbled signal from a signal track for reading the control information, wherein said detecting step is carried out in a free running state in which only a focus servo is turned on."

Independent claim 7 recites a combination of steps in a method of controlling a recording or reproducing of information on or from an optical recording medium having control information recorded in a wobbled form on a

signal track, including “detecting a wobbled signal from a signal track for detecting the present rotating speed of the optical recording medium, wherein said detecting step is carried out in a free running state in which only a focus servo is turned on.”

Independent claim 13 recites a combination of elements in a device for controlling a recording or reproducing of information on or from an optical recording medium having control information recorded in a wobbled form on a signal track, including “a tracking servo for performing tracking control on the optical recording medium,” and “a wobble detecting part for detecting a wobbled signal formed by wobbling from the signal track at a time when only a focus servo is turned on and the tracking servo is not operating.”

It is respectfully submitted that the combinations of steps and elements set forth in independent claims 1, 7, and 13 are not anticipated or made obvious by the applied prior art of record, including Kuroda et al., Mizumoto et al., Büchler and Iimura.

Kuroda teaches using the wobble signal to control the spindle speed. However, the Examiner correctly indicated that Kuroda fails to teach that the wobble signal is detected when only a focus servo is turned on as recited in claims 1, 7 and 13.

Mizumoto also fails to cure the deficiencies of Kuroda. In particular, Mizumoto teaches a method to perform the spindle motor servo control process

without using wobble frequency because “it is impossible to perform the spindle motor servo control process using the wobble frequency of the guide groove on the R-CD because the ordinary playback-only disc player has no means for detecting the wobbling frequency” (see col. 3, lines 46-60). Since Kuroda teaches using the wobble signal to control the spindle speed and Mizumoto teaches it is impossible to perform the spindle motor servo control process using the wobble frequency, Applicant respectively submits that Mizumoto teaches away from the combination with Kuroda and one of ordinary skill in the art would not have been motivated to modify Kuroda in view of Mizumoto.

With regard to Matsumoto, U.S. Patent No. 5,511,050, and Tomita, U.S. Patent No. 6,577,566 cited in the Response to Arguments of the instant Office Action, since these references cited by the Examiner have not been utilized in the claim rejections under 35 U.S.C. §103(a), no further comments are necessary with respect thereto. If the Examiner is basing his rejections on references which have not been applied, the final rejections under 35 U.S.C. §103(a) are improper and should immediately be withdrawn.

With regard to the Examiner's reliance on Büchler and Iimura, these references have only been relied on for their teachings relating to dependent claims. These references also fail to disclose the above combinations of the elements as set forth in independent claims 1, 7 and 13. Accordingly, these references fail to cure the deficiencies of Kuroda.

Accordingly, none of these references utilized by the Examiner individually or in combination teach or suggest the limitations of independent claims 1, 7 and 13. Therefore, Applicant respectfully submits that independent claims 1, 7 and 13 clearly define over the teachings of these references.

In addition, claims 2-6, 9-12, and 14-20 depend, either directly or indirectly, from independent claims 1, 7 and 13, and are therefore allowable based on their respective dependence from independent claims 1, 7 and 13, which are believed to be allowable.

In view of the above remarks, Applicant respectfully submits that claims 1-7 and 9-20 clearly define the present invention over the references relied on by the Examiner. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103 are respectfully requested.

#### **Additional Cited References**

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but rather to merely show the state of the art, no further comments are necessary with respect thereto.

#### **CONCLUSION**

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. It is believed that a full and complete

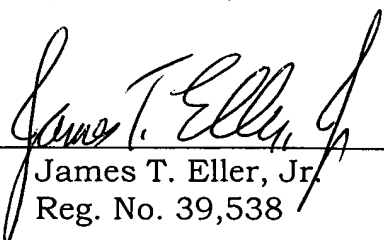
response has been made to the outstanding Office Action, and that the present application is in condition for allowance.

However, if there are any outstanding issues, the Examiner is invited to telephone the undersigned at 703-205-8000, in an effort to expedite prosecution.

Applicant respectfully petitions under the provisions of 37 C.F.R. 1.136(a) and 1.17 for a three-month extension of time in which to respond to the Examiner's Office Action. The Extension of Time Fee in the amount of \$1,020.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,  
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